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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re

Amendment of
Section 73.202(b)
of the Commission's Rules,
Table of Allotments,
FM Broadcast Stations
(Fredericksburg and
Helotes, Texas)

MM Docket No. 94-_____

RM-_____

To: The Chief, Allocations Branch,
Mass Media Bureau

PETITION FOR RULE MAKING

October Communications Group, Inc. ("OCG"), the licensee of radio station KONO-FM, Channel 266C, Fredericksburg, Texas, hereby requests that the Commission commence a rule-making proceeding to amend Section 73.202(b) of the Commission's Rules, the FM Table of Allotments, with respect to the allotment of KONO-FM occupies. Specifically, OCG seeks the substitution of the currently unserved community of Helotes, Texas, for KONO-FM's present community of license, Fredericksburg, which enjoys another local commercial service.

I. ARGUMENT

1. Relicensing KONO-FM to Helotes will result in a preferential system of allotments. Station KONO-FM is one of two

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radio stations licensed to serve the community of Fredericksburg, Texas (population 6934).^{1/} Station KNAF(AM), operating on 910 KHz, is also licensed to Fredericksburg and offers full-time service to the community. Nearby Helotes, however, has no local radio broadcast service.

2. Helotes is a growing community with a population of 1535. It became incorporated in 1981 and currently supports a 10-officer police force and a fire department with a paid chief and assistant chief who supervise over 30 volunteer firemen. The Helotes post office employs eight postal workers. One of the elementary schools of the Northside Independent School District is located within Helotes city limits, and enrolls over 400 students and employs 35 staff. The city also has two volunteer libraries and places of worship for members of the following faiths: Catholic, Methodist, Baptist, Lutheran, Presbyterian, and Hindu. Local businesses include three gas stations, 12 restaurants, a dry-cleaning service, a feed store, a florist, a video store, a taxidermy shop, and a grocery store with a pharmacy. Non-profit organizations thrive in Helotes: a 4H Club, the American Association of Retired Persons, a Lions and Lioness' Club, an Optimist Club, and the Casa Helotes Senior Citizens Center.

^{1/} The Commission also recently granted a construction permit for a full power television station on Channel 2 in Fredericksburg.

3. By means of the Report and Order in MM Docket No. 88-526, 4 FCC Rcd. 4870 (1989), the Commission changed its rules to help FM broadcast stations relocate to unserved and underserved communities of license on their current or adjacent channels. Specifically, the FCC modified Section 1.420 to shield an FM licensee from competing expressions of interest in a relocated allotment if that allotment were mutually exclusive, on a technical (spacing) basis, with the allotment the station currently occupies. That is the situation with Fredericksburg and Helotes, Texas. Based on spacing requirements for cochannel Class C facilities, Channel 266C allotments to Fredericksburg and Helotes cannot coexist. See Exhibit A hereto, the technical statement of Mr. John Furr, OCG's consultant.

4. The FCC judges FM allotment proposals according to the following priorities:

- (1) provision of first aural service;
- (2) provision of second aural service;
- (3) provision of first local service to a community;
- (4) other public-interest factors,

with priorities (2) and (3) sharing co-equal rank. Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982).

The proposed allotment relocation of Channel 266C to Helotes advances a preferential rearrangement of FM allotments by creating a first local service (Category 3), and does not deprive Fredericksburg of its only local service.

5. Fredericksburg currently enjoys two local services KONO-FM and KNAF(AM), but Helotes has no local service. Upon

adoption of OCG's proposal, Fredericksburg would still enjoy local service, and Helotes would gain a first local service. Helotes is an incorporated city with a plethora of civic attributes, and fully deserves a transmission service. OCG's proposal reduces the current imbalance in local service, thus maximizing the allocation of the spectrum based on the FCC's enumerated priorities and the statutory mandate.

6. Section 307(b) of the Communications Act of 1934, as amended, seeks the fair and equitable distribution of broadcast services among the several states and communities. The resulting new service to a currently unserved community that OCG's proposal represents furthers the public interest. See, FM Assignment Policies and Procedures, supra. As Mr. Furr demonstrates in Exhibit A hereto, the Commission may reallocate Channel 266C to Helotes in full compliance with the Agency's technical requirements, including minimum acceptable spacing to other facilities and allotments and city-grade coverage. Finally, if the FCC grants this proposal, OCG intends to promptly obtain a construction permit, to place into operation, and to seek a covering license for the Helotes facility.

II. CONCLUSION

For all of the reasons stated above, the reallocation of Channel 266C to the community of Helotes, Texas as a first local broadcast service will serve the public interest. Accordingly, the Commission should promptly institute a rule-making proceeding to that end.

Respectfully submitted,

OCTOBER COMMUNICATIONS GROUP, INC.

By Julie Arthur Garcia
John Joseph McVeigh
Julie Arthur Garcia

Its Attorneys

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Date:

October Communications Group
Petition for Rule-Making

Exhibit A

TECHNICAL STATEMENT

This statement is prepared on behalf of October Communications Group, Inc. who is the licensee of KONO-FM in Fredericksburg, Texas ("KONO"). This Petition for Rulemaking requests amendment of the Table of FM Channel Allotments, Section 73.202(b) of the FCC Rules to provide a change in the city of license from Fredericksburg, Texas to Helotes, Texas. This statement discusses the technical factors involved in the above change.

The reference coordinates for this proposal is the currently authorized transmitter site:

Latitude 29°50'26" North, Longitude 98°49'32" West

As can be seen from the attached Exhibit A, Class C operation from this site has fully complied with all separation requirements as set forth in §73.207 of the FCC Rules.

This site is located 32 kilometers north-west (336 degrees True) of the reference coordinates of Helotes, Texas as given in the Index to the National Atlas of the United States of America, which are 29°34'40" North, 98°41'42" West. From this site the entire city of Helotes, Texas is being served with the 70 dBu contour as required by §73.315(a) and (b), demonstrated in Exhibit B. The contour was calculated in accordance with Section 73.313 using the currently authorized facilities. A 156° radial across the proposed city of license is also included.

I, John R. Furr, I am a Communications Consultant, and represent October Communications Group, Inc. My qualifications are a matter of record with the Federal Communications Commission, and all statements made herein are true and correct to the best of my knowledge and belief.

May 5, 1994


John R. Furr

05-06-1994

John Furr & Associates Inc.

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FM Study for: KONO-FM
 Location: HELOTES, TX
 Call City, State
 Status Proponent

FCC Database Date: 3/94
 Channel Class: C
 Chan Class Freq kW Latitude Dist. Required
 File Number HAAT Longitude Azm. Clear (km)

29-50-26

98-49-32

Required

Clear (km)

>>>>>> Study For Channel 266 101.1 MHz <<<<<<<

KONO-FM FREDERICKSBURG, TX 266 C 101.1 98. 29-50-26 0.0 290
 LIC GILLESPIE BROADCASTING BLH-880411KC 418 98-49-32 0.0 -290.0 SHORT
 Use of 73.215 for short spacing requires: 270 -270.0 SHORT

KASE AUSTIN, TX 264 C 100.7 100. 30-19-10 112.1 105
 LIC KVET BROADCASTING COM BLH-820628AN 363 97-48-06 61.5 +7.1 CLOSE

ALLOC GEORGE WEST, TX 265 A 100.9 28-20-06 180.6 165
 ADD BENNET BROADCASTING, Docket-91-180 0 98-06-54 157.3 +15.6 CLEAR
 Proposed to Mexico as B on 911024-Accepted by Mexico on 920228
 Counterproposal-Application For Review

KLOL HOUSTON, TX 266 C 101.1 95. 29-34-34 322.2 290
 LIC RUSK CORPORATION BLH-831025AB 585 95-30-36 94.4 +32.2 CLEAR

KOKE GIDDINGS, TX 268 C1 101.5 100. 29-57-00 141.1 105
 APP RADIO LEE COUNTY BPH-930527IE 299 97-22-13 84.7 +36.1 CLEAR
 From channel 268C2 Per D89-459

ALLOC GIDDINGS, TX 268 C1 101.5 29-55-00 144.4 105
 VAC Docket-89-459 0 97-20-00 86.3 +39.4 CLEAR
 Site Restricted-Effective Effective 4-15-93-RSVD For KOKE Per D89-459

ALLOC COLOMBIA, NL 266 A 101.1 27-42-44 253.1 210
 - 0 99-45-57 201.5 +43.1 CLEAR

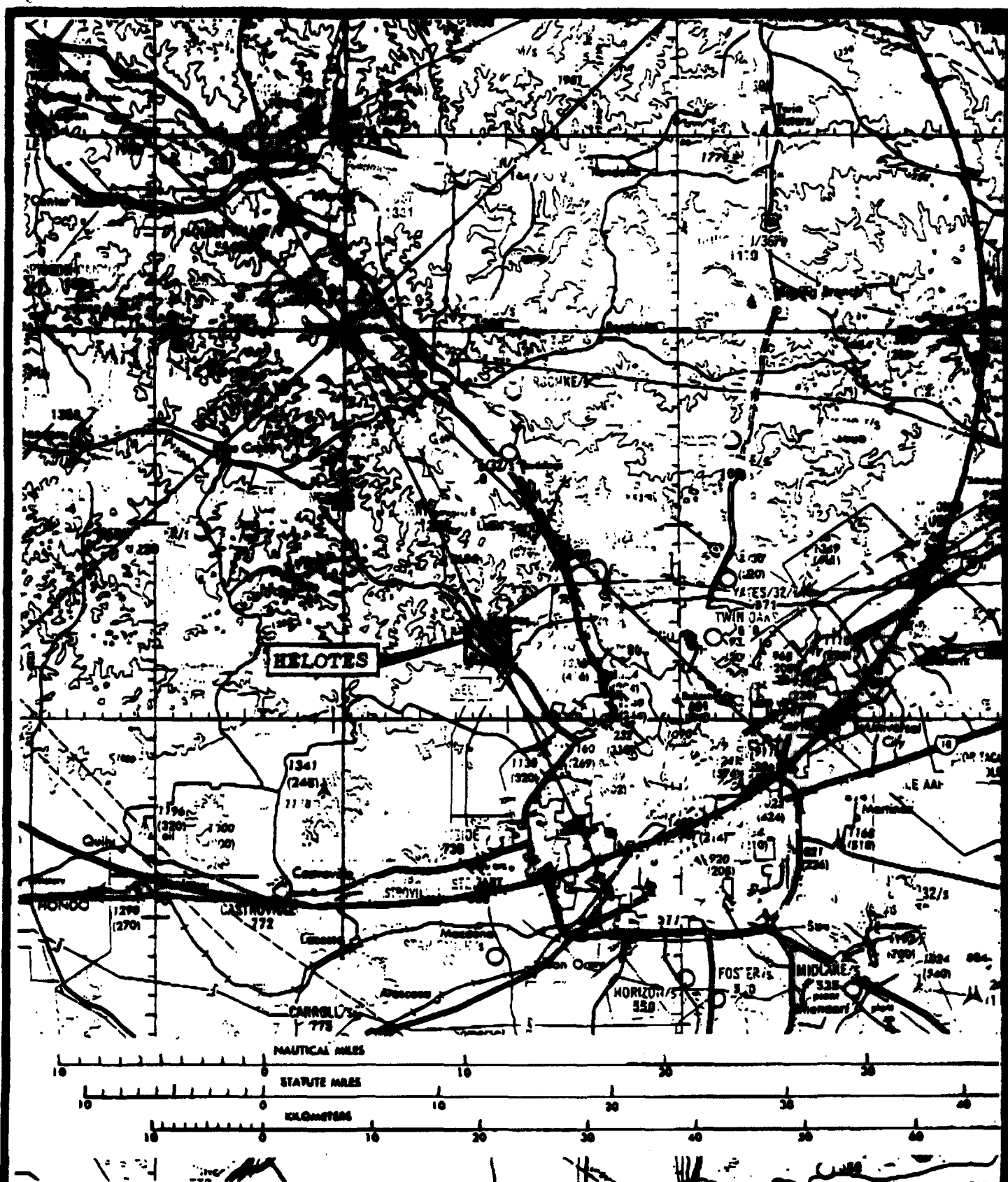
KEPG VICTORIA, TX 265 A 100.9 2.90 28-47-20 208.2 165
 LIC YOLANDA G. DORSETT BLH-890224KF 93 97-03-00 123.6 +43.2 CLEAR

KNCN SINTON, TX 267 C1 101.3 100. 27-55-24 252.7 209
 LIC TIPPIC COMMUNICATIONS BMLH-575 110 97-25-26 146.9 +43.7 CLEAR

JF&A
 COMMUNICATIONS
 CONSULTANTS

ALLOCATION STUDY

KONO-FM
 HELOTES, TX
 EXHIBIT A



JF&A
COMMUNICATIONS
CONSULTANTS

70 DBU COVERAGE

KONO-FM
HELOTES, TX
EXHIBIT B

CERTIFICATE OF SERVICE

I, Leslie Byers, a secretary to the law firm of Fisher
Wayland Cooper Leader & Zaragoza L.L.P., hereby certify that I
have this 6th day of May, 1994, sent copies of the foregoing
"PETITION FOR RULE MAKING" by hand delivery to:

Roy J. Stewart, Esq.
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Michael Ruger
Chief, Allocations Branch
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Leslie Byers